

REPORT - PLANNING COMMISSION MEETING
February 24, 2005

Project Name and Number: Floor Area Ratio Zoning Text Amendment (PLN2005-00150)

Applicant: The Redevelopment Agency of the City of Fremont

Proposal: To consider a Zoning Text Amendment to increase the Floor Area Ratio for properties within the Niles Historic District and the Niles Parking and Improvement Area, or any subsequently established special assessment district(s) that replaces the Niles Parking and Improvement Area, from 0.50 to 1.0. To increase the Floor Area Ratio in the Mission San Jose Historic District from 0.50 to 0.65 consistent with the provisions of the Mission San Jose Design Guidelines. And, to amend the findings required to allow an FAR increase above the maximum.

Recommended Action: Recommend to City Council

Location: Niles Historic Overlay District, Mission San Jose Historic Overlay District, generally

Environmental Review: A negative declaration has been prepared and circulated for this project.

Existing General Plan: Community Commercial Center

Existing Zoning: Community Commercial, Historic Overlay (C-C(H))

Existing Land Use: Commercial/retail, generally

Public Hearing Notice: A total of 700 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Niles Boulevard, Mission Boulevard, Vallejo Street, 2nd Street, 3rd Street, I Street, H Street, J Street, G Street. The notices to owners and occupants were mailed on February 11, 2005. A Public Hearing Notice was delivered to The Argus on February 7, 2005 to be published by February 10, 2005.

In addition, a display advertisement was delivered to The Argus on February 7, 2005 to be published by February 10, 2005.

In addition, a Notice of Preparation of a Draft Negative Declaration was delivered to The Argus on January 25, 2005 to be published on January 28, 2005.

In addition, 12 public hearing notices were mailed as a courtesy to interested parties.

Executive Summary: The proposed Zoning Text Amendment is an implementation measure of the *Niles Concept Plan* and the *Mission San Jose Design Guidelines*. The *Niles Concept Plan* specifically recommended that certain properties within the Niles Historic Overlay Zoning District should be allowed to develop or expand up to a Floor Area Ratio (FAR) of 1.0. Similarly, the *Mission San Jose Design Guidelines* recommend allowing a higher floor area ratio as an incentive for the development of courtyards and outdoor open space in Mission San Jose Historic Overlay Zoning District. The *Guidelines* recommend allowing a 30% increase of the FAR from 0.50 to 0.65 when projects meet specific criteria as outlined in the *Guidelines*.

The Findings section to allow increases in FAR will also be amended to include a new finding for projects that exceed the maximum FAR established by the Community Commercial District. For projects located in the Historic Mission San Jose or Niles District, Irvington Redevelopment Area and specific plan area of Centerville, only one finding will be required for increases above the allowable FAR. The new finding relates to providing adequate parking, either through a parking district or joint access easement to an adjacent parcel, to support the increase in FAR.

Background and Previous Actions: The *Niles Concept Plan* was approved by the City Council in September 2001. The *Plan* identified a number of planning strategies and implementation measures intended to encourage the revitalization of the Historic Niles District, particularly its commercial core along and adjacent to Niles Boulevard. The FAR increase from 0.50 to 1.0 was one of the implementation measures recommended in the *Plan*.

The *Mission San Jose Design Guidelines* were adopted in May 1998. The *Guidelines* encourage the development of courtyards and outdoor open spaces within the Mission San Jose Historic District. As an incentive to develop these courtyards, the *Guidelines* allow a FAR increase from 0.50 to 0.65. The proposed Zoning Text Amendment intends to codify this language to further encourage courtyards and provide the incentive to do so.

Project Description: Floor Area Ratio (FAR) is the amount of building floor area, regardless of the number of stories, expressed in relation to the area of the parcel on which the building is located. At present, the maximum allowable FAR for properties in the Niles Historic Overlay District is 0.5, meaning that a building's total floor area cannot exceed half the area of its parcel.

The *Concept Plan* recommends that within the Niles Historic Overlay Zoning District the right to develop building space in excess of 0.5 FAR be increased to 1.0 upon the ability to make a Finding that the proposed new development and parking can be accommodated consistent with the Niles Design Guidelines without significant disruption to surrounding properties.

Expanding upon the *Niles Concept Plan* recommendation, the subject zoning text amendment would allow FARs of up to 1.0 for those properties situated within *both* the C-C(H) Zoning District and the Niles Parking and Improvement Area, and would eliminate the need for the Finding that parking can be accommodated for such projects. The *Niles Concept Plan* does not mention the Niles Parking and Improvement Area as a means to classify properties eligible for the increased FAR. However, staff feels that properties included in both the C-C(H) Zoning District and the Niles Parking and Improvement Area would be able to accommodate an increased FAR by providing for additional parking.

However, two exclusions to the proposed increased FAR need to be identified. The first exclusion applies to properties where demolition of a historic building is involved. If a historic building demolition is approved, new development on the site may not exceed an FAR of 0.50. If a property owner proposes to retain his or her historic structure, and add additional building space, the property owner would be entitled to the 1.0 FAR. The reduced FAR for situations involving demolition of historic structures is to discourage demolition, and was set forth in the *Niles Concept Plan*.

The second exclusion applies to the City owned former Union Pacific Property (APN 507-0150-006-11) and County of Alameda properties located on the north side of Niles Boulevard, and to other properties that may be added to the Community Commercial District in the future. These properties will continue to be limited to a 0.50 FAR, as provided in the *Niles Concept Plan*.

The *Mission San Jose Design Guidelines* provide a variety guidelines and regulations for the development of commercial and multi-family properties within the Mission San Jose Historic Overlay District. Development and design elements considered by the *Guidelines* include setbacks, open space, FAR, parking, building design, signs, lighting and landscaping, among others. Specifically related to FAR increases, the *Guidelines* allow a 30% FAR increase from 0.50 to 0.65 for properties or projects that create new, useable outdoor courtyard spaces. To qualify for the increase the project must meet specific criteria as outlined in the *Guidelines*. These criteria include courtyard minimum size and shape, contextual relationship and public amenities. The *Guidelines* also allow properties adjacent to a courtyard project to also obtain an FAR of 0.65.

HARB Review: The proposed FAR increase was presented to HARB at its January 13th meeting. HARB members were in general agreement that the increased FAR would benefit the Niles District. However, members wanted to ensure that the Union Pacific Property and County Owned Properties north of Niles Boulevard are not included as part of the increased FAR. There is concern that an increased FAR on these properties may block views to the hills from other areas of Niles. It should be noted that the Union Pacific property is in process of being acquired by the Redevelopment Agency for development of the Niles Town Plaza and additional parking. The HARB minutes of January 13 are attached to this report as an informational exhibit.

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan land use designation for both of the project areas is Community Commercial Center, with numerous Historic properties located within each District. The proposed project is consistent with the existing General Plan land use designation for each project area because the proposed increase in Floor Area Ratio is intended to encourage development while fostering a community shopping environment. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

- *Land Use Policy 2.2* – Floor Area Ratios as described in Table 3-5 of the General Plan designates Community Commercial areas of having FARs of 0.50 to 1.25. The General Plan already assumes that Community Commercial Districts can have an FAR above 0.50.

It should be noted that mixed-use development within a Community Commercial area is entitled to an FAR of 1.25 per Section 8-22148.7(b)(1)(a) of the Zoning Ordinance.

- *Land Use Policy 2.16* – Development of a Community Commercial district should be guided by a Design and Development Plan. The Niles Community Commercial district is guided by the Niles Concept Plan. The Mission San Jose Community Commercial District is guided by the Mission San Jose Design Guidelines and Regulations. Both documents recommend increased FARs as previously described.

Redevelopment Plan Conformance: The properties located within the Niles Historic Overlay Zoning District that would be affected by the proposed Zoning Text Amendment are also included in the Niles Redevelopment Project Area. The primary goal of redevelopment is to eliminate physical and economic blight. Additionally, within main street-style business districts such as Niles, the Redevelopment Agency strives to promote economic revitalization through the attraction of diverse and synergistic pedestrian-oriented land uses and through the facilitation of new development that is compatible with the character and scale of the historic district. The proposed Zoning Text Amendment achieves this by allowing new development in scale with existing buildings, while at the same time not altering the development review process that requires proposed development to be compatible with the Niles Design Guidelines.

Zoning Regulations: The request is for a Zoning Text Amendment to amend certain sections of the Zoning Ordinance as recommended by the *Niles Concept Plan* and *Mission San Jose Design Guidelines*. The amendment will affect two Articles of the Zoning Ordinance. Article 11, Community Commercial District, Section 8-21104 will be amended to include the new increases in FAR allowed in the Niles and Mission San Jose Historic Overlay Districts. It will also include consistency provisions with the *Niles Concept Plan* and *Mission San Jose Design Guidelines*.

Article 21.3, Special Provisions, Section 8-22140.5, Increases in FAR, will also be amended to include a new finding for projects that exceed the maximum FAR established by the Community Commercial District. For projects located in the Historic Mission San Jose or Niles District, Irvington Redevelopment Area and specific plan area of Centerville, only one finding will be required for increases above the allowable FAR. The new finding relates to providing adequate parking, either through a parking district or joint access easement to an adjacent parcel, to support the increase in FAR.

All other regulations, bulk standards and provisions of the Zoning Ordinance will continue to apply to projects that are developed with the increased FAR.

Parking: In addition to regulating building scale, FAR thresholds are often linked to parking availability. This aspect of FAR was discussed in the *Niles Concept Plan*. Since 1978, most of the properties in the Niles Historic Overlay District have been included in the Niles Parking and Improvement Area (Parking Area). The Parking Area is an assessment district that provides centrally located, offsite parking facilities that compensate for Niles' small-lot pattern and pedestrian building orientation which often precludes the ability to provide onsite parking.

Excluding three, large City-controlled parcels, two of which are developed with the surface-level parking that serves the Parking Area, 52 of the 61 C-C(H) zoned properties in Niles are in the Parking Area. Since 1978, the Parking Area facilities have consisted exclusively of two City-owned parking lots on the north side of Niles Boulevard, located opposite

most of the district's commercial buildings. The two lots contain 176 parking spaces; in addition, approximately 206 on-street parking spaces exist in the district, giving the commercial area approximately 382 publicly accessible spaces (several properties within the Parking Area have a small number of onsite spaces that would slightly increase this total).

In recommending a FAR increase for the properties included in the Niles Historic Overlay District, the *Concept Plan* acknowledged that a site capable of providing expanded parking facilities would need to be identified and that the existing Parking Area would have to be reformulated, or replaced, so that additional commercially-zoned properties would be able to join and pay into the assessment district. In terms of providing a site for expanded future parking, the City has been working on a redevelopment plan for the 5.25-acre property, formerly owned by the Union Pacific Railroad (UP Property), located in between the two existing City parking lots. The focal element of this redevelopment plan is a Town Plaza located on the north side of Niles Boulevard, between I and H Streets. In addition to the plaza, the redevelopment plan includes a much larger surface parking area (set well back from Niles Boulevard, in accordance with the Concept Plan's guidelines) than presently exists and increased diagonal, on-street parking that would raise the total number of spaces in the Parking Area from 176 to approximately 400. In terms of reformulating the parking assessment district, the City is working with Niles property owners to set up a new district that would have the ability to include additional properties and would provide for the maintenance of the Town Plaza and expanded parking facilities, when constructed.

Parking in Mission San Jose is provided primarily through on-street parking and a few shared parking lots serving multiple businesses. The affect of the FAR increase in Mission San Jose is not anticipated to be significant or impact existing parking facilities. Projects requesting the increased FAR consistent with the provisions of the Mission San Jose Design Guidelines will be reviewed individually to ensure adequate parking is provided.

ENVIRONMENTAL ANALYSIS: An Initial Study has been prepared for this project. The environmental analysis did not identify any potential impacts as a result of the proposed project and accordingly a Negative Declaration has been prepared for consideration by the Planning Commission. A more detailed description is provided within the Initial Study for the project, which is included as an enclosure.

The initial study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

Response from Agencies and Organizations: At the time of writing this report no comments were received from outside agencies or organizations.

ENCLOSURES:

Exhibit "A"	(Zoning Text Amendment)
Exhibit "B"	Initial Study, Draft Negative Declaration
Exhibit "C"	Negative Declaration Comments
Exhibit "D"	Negative Declaration Response to Comments
Exhibit "E"	HARB Minutes (Informational)
Exhibit "F"	Niles Parking District Boundaries (Informational)
Exhibit "G"	Mission San Jose Historic District (Informational)

EXHIBITS:

Exhibit "A"	(Zoning Text Amendment)
Exhibit "B"	Initial Study, Draft Negative Declaration

Recommended Actions:

1. Hold public hearing.

2. Recommend that the City Council find the initial study conducted for the project has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources. As a result, recommend the filing of a Certificate of Fee Exemption for the project.
3. Recommend to the City Council the adoption of Draft Negative Declaration finding that there is no substantial evidence that the project will have a significant effect on the environment and further find that this action reflects the independent judgment of the City of Fremont.
4. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
5. Find the public necessity, convenience and general welfare require the adoption of this Zoning Text Amendment (PLN2005-00150) to further implement the Niles Concept Plan and Mission San Jose Design Guidelines.
6. Recommend PLN2005-00150 to the City Council in conformance with Exhibit "A" (Zoning Text Amendment).